

FILED

28 AUG 2015



Form 2
(Rules 2.2 and 15A.3)

IN THE SUPREME COURT OF NEW SOUTH WALES
DIVISION: EQUITY
REGISTRY: NEW SOUTH WALES
LIST: CORPORATIONS LIST

No. of 2015
252832

IN THE MATTER OF BANKSIA SECURITIES LIMITED (IN LIQUIDATION)
(RECEIVERS AND MANAGERS APPOINTED)
ABN: 45 004 736 458

THE TRUST COMPANY (NOMINEES) LIMITED
ABN 14 000 154 441
Plaintiff

ORIGINATING PROCESS

A. DETAILS OF APPLICATION

This application is made pursuant to sections 283HA, 283HB, 418A and 532(2) of the *Corporations Act 2001* (Cth) (**Act**), section 63 of the *Trustee Act 1925* (NSW) and Part 54 of the *Uniform Civil Procedure Rules 2005* (NSW) and the inherent jurisdiction of the court.

On the facts stated in the supporting affidavit(s), the Plaintiff claims:

1. A direction that in the circumstances that have occurred, the Plaintiff as trustee pursuant to the Trust Deed for First Ranking Debenture Stock dated 12 December 1994 (as amended from time to time) (**Trust Deed**) between the Plaintiff and Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed), would be justified in seeking the appointment by the Court of Mr John Ross Lindholm and Mr Peter Damien McCluskey as joint and several receivers or joint and several receivers and managers, of so much of the Property of Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed) more fully described in the Schedule marked "A".
2. Subject to the terms of any directions made pursuant to paragraph 1 hereof, an order that John Ross Lindholm and Peter Damien McCluskey or such other fit and proper person who the Court may appoint, be appointed joint and several receivers or joint and several

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receivers and managers by the Court over the Property of Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed) as described in the Schedule marked "A":

- (a) on such terms as to security as the Court may order;
 - (b) for such period commencing on the date of this order and terminating and concluding on the date of termination, settlement or abandonment of the proceedings described as the Property of Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed) in the Schedule marked "A"; and
 - (c) impose such terms as to remuneration and expenses properly incurred as the Court may direct.
3. An order that John Ross Lindholm and Peter Damien McCluskey pass their accounts at such times and in accordance with any directions that the Court may make from time to time.
 4. An order that to the extent necessary, leave be granted pursuant to section 532(2) of the *Corporations Act 2001* (Cth) to John Ross Lindholm and Peter Damien McCluskey to continue to act for Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed) notwithstanding their appointment by the Court as receivers pursuant to Order 2 above.
 5. To the extent necessary, an order pursuant to section 418A of the *Corporations Act 2001* (Cth), that the appointment by the Court of John Ross Lindholm and Peter Damien McCluskey as receivers pursuant to Order 2 above, is valid notwithstanding the provisions of section 418(1)(f) of the *Corporations Act 2001* (Cth).
 6. Such further or other orders including such orders that may be necessary for the protection of the debenture holders of the Trust Deed which secures the property of Banksia Securities Limited (In Liquidation) (Receivers and Managers appointed), as may appear to the Court just and convenient.
 7. The Plaintiff's costs, remuneration and expenses of this application be costs, remuneration and expenses incurred under the Trust Deed and paid in accordance with the terms of the Trust Deed on an indemnity basis.

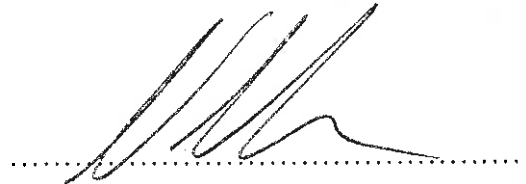
8. The Plaintiff have liberty to apply to the Court on 2 days' notice.

Schedule A

The Property of Banksia Securities Limited (In Liquidation) (Receivers And Managers Appointed) ABN 45 004 736 458 means the rights and entitlements of Banksia Securities Limited (In Liquidation) (Receivers And Managers Appointed) the subject of the following proceedings:

- (a) Supreme Court of Victoria, Case No. S CI 2014/05875 known as "Anthony Gregory McGrath, Joseph David Hayes, Matthew Wayne Caddy and Robert Michael Kirman as receivers and managers of Banksia Securities Ltd (In Liquidation) (Receivers and Managers appointed) and another"; and
- (b) Supreme Court of Victoria, Case No. S CI 2012/07185 known as "Laurence John Bolitho."

Date: 28 August 2015



Nicholas Mavrakis
Plaintiff's Solicitor

This application will be heard by the Supreme Court of New South Wales at Law Courts, Building, Queens Square, 184 Phillip Street, Sydney at 9 am*/~~pm~~* on 14/9/15 2015.

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: N/A

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (c) the application may be heard and final relief given;
- (d) directions may be given for the future conduct of the proceeding;

(e) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the Plaintiff.

Note: Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

D. FILING

Date of filing:

Registrar

This originating process is filed by Nicholas Mavrakis for the Plaintiff.

E. SERVICE

The Plaintiff's address for service is:

Clayton Utz
Lawyers
Level 15
1 Bligh Street
Sydney NSW 2000
(Attention: Nicholas Mavrakis and Jennifer Ball)

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It is intended to serve a copy of this originating process on:

Banksia Securities Limited (In Liquidation) (Receivers And Managers Appointed) ABN 45 004 736 458 of c/- the offices of McGrathNicol, Level 31, 60 Margaret Street, Sydney NSW 2000

Banksia Securities Limited (In Liquidation) (Receivers And Managers Appointed) ABN 45 004 736 458 of c/- the offices of Ferrier Hodgson, 600 Bourke Street, Melbourne VIC 3000

The Australia Securities & Investments Commission of Level 5, 100 Market Street, Sydney NSW 2000.